

AMENDED IN SENATE JUNE 24, 2010

AMENDED IN SENATE JUNE 7, 2010

AMENDED IN ASSEMBLY JANUARY 13, 2010

AMENDED IN ASSEMBLY JANUARY 4, 2010

AMENDED IN ASSEMBLY APRIL 27, 2009

AMENDED IN ASSEMBLY APRIL 16, 2009

CALIFORNIA LEGISLATURE—2009—10 REGULAR SESSION

ASSEMBLY BILL

No. 1263

Introduced by Assembly Member Audra Strickland

February 27, 2009

An act to amend Section 1162 of the Code of Civil Procedure, relating to unlawful detainer.

LEGISLATIVE COUNSEL'S DIGEST

AB 1263, as amended, Audra Strickland. Unlawful detainer: service of notice.

Existing law governs unlawful detainer proceedings to effect the removal of a tenant from the property. Existing law specifies the manner of serving notice upon a tenant under those circumstances. Existing law requires service of the notice by delivering a copy to the tenant personally. If the tenant is absent from his or her place of residence, and from his or her usual place of business, existing law provides that notice may be served by leaving a copy with some person of suitable age and discretion at either place, and sending a copy through the mail addressed to the tenant at his or her place of residence. If the residence and business cannot be ascertained, or a person of suitable age and

discretion there cannot be found, existing law authorizes the notice to be served by affixing a copy in a conspicuous place on the property and delivering a copy to the person there residing, if that person can be found, and by sending a copy through the mail addressed to the tenant at the place where the property is situated.

This bill would revise the provision governing the methods of serving notice upon a commercial tenant, as defined, for purposes of the unlawful detainer provisions by deleting the requirement that service be made at the tenant's place of residence or usual place of business. The bill would instead provide that service upon a commercial tenant be made by (1) delivering a copy to the tenant personally, (2) leaving a copy with some person of suitable age and discretion at the property and sending a copy through the mail, as specified, or (3) by affixing a copy in a conspicuous place on the property and sending a copy through the mail, as specified.

Vote: majority. Appropriation: no. Fiscal committee: no.
State-mandated local program: no.

The people of the State of California do enact as follows:

- 1 SECTION 1. Section 1162 of the Code of Civil Procedure is
- 2 amended to read:
- 3 1162. (a) Except as provided in subdivision (b), the notices
- 4 required by Sections 1161 and 1161a may be served by any of the
- 5 following methods:
- 6 (1) By delivering a copy to the tenant personally.
- 7 (2) If he or she is absent from his or her place of residence, and
- 8 from his or her usual place of business, by leaving a copy with
- 9 some person of suitable age and discretion at either place, and
- 10 sending a copy through the mail addressed to the tenant at his or
- 11 her place of residence.
- 12 (3) If such place of residence and business cannot be ascertained,
- 13 or a person of suitable age or discretion there can not be found,
- 14 then by affixing a copy in a conspicuous place on the property,
- 15 and also delivering a copy to a person there residing, if such person
- 16 can be found; and also sending a copy through the mail addressed
- 17 to the tenant at the place where the property is situated. Service
- 18 upon a subtenant may be made in the same manner.
- 19 (b) The notices required by Section 1161 may be served upon
- 20 a commercial tenant by any of the following methods:

1 (1) By delivering a copy to the tenant personally.

2 (2) If he or she is absent from the commercial rental property,
3 by leaving a copy with some person of suitable age and discretion
4 at the property, and sending a copy through the mail addressed to
5 the tenant at the address where the property is situated.

6 (3) If, *at the time of attempted service*, a person of suitable age
7 or discretion ~~cannot be~~ *is not* found at the rental property through
8 the exercise of reasonable diligence, then by affixing a copy in a
9 conspicuous place on the property, and also sending a copy through
10 the mail addressed to the tenant at the address where the property
11 is situated. Service upon a subtenant may be made in the same
12 manner.

13 ~~(e) It shall be prima facie evidence that there was the exercise~~
14 ~~of reasonable diligence in completing service for purposes of~~
15 ~~paragraph (3) of subdivision (b) if service was made by a registered~~
16 ~~process server or the sheriff. This provision shall not be interpreted~~
17 ~~to mean that service that is not made by a registered process server~~
18 ~~or the sheriff does not satisfy paragraph (3) of subdivision (b).~~

19 ~~(d)~~

20 (c) For purposes of subdivision (b), “commercial tenant” means
21 a person or entity that hires any real property in this state that is
22 not a dwelling unit, as defined in subdivision (c) of Section 1940
23 of the Civil Code, or a mobilehome, as defined in Section 798.3
24 of the Civil Code.